

PATENT

Attorney Docket No.: KRYO-00400

Remarks

Within the Notice of Allowance mailed 11/29/2007, the Examiner requested the submission of a substitute oath or declaration in compliance with 37 C.F.R. 1.67(a). The Examiner identified the combined oath/declaration defective because "[i]t does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56."

However, in a pre-Official Gazette Notice, the Director waived "the express language requirement of 37 C.F.R. 1.63(b)(3), where the oath was filed prior to June 1, 2008 ... to the extent necessary such that an oath of declaration containing the 'material to examination' or 'in accordance with § 1.56(a)' language, or both, will be accepted as acknowledging the applicant's duty to disclose information "material to patentability" as defined in 37 CFR 1.56." *Dudas, Jon W., "Duty of Disclosure Language Set Forth in Oaths or Declarations Filed in Nonprovisional Patent Applications", Pre-Official Gazette Notice, 1/22/08* <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/duty_of_disclosure.pdf>.

The Applicant filed an otherwise compliant combined oath/declaration on December 18, 2003 containing the 'material to examination' language. Therefore, the combined oath/declaration is compliant with 37 CFR 1.56 as defined by the pre-Official Gazette Notice.

For the reasons given above, applicant respectfully submits that the oath is not defective. Should the Examiner have any questions or comments, they are encouraged to call the undersigned at (408) 530-9700 to discuss the same so that any outstanding issues can be expeditiously resolved.

Respectfully submitted,
HAVERSTOCK & OWENS LLP

Dated: 1-30-08

By: 

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CERTIFICATE OF MAILING (37 C.F.R. 1.61(c))
I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450

HAVERSTOCK & OWENS LLP.

Date: 01-30-08 By: 